JLP:ddj
Docket No: 5227-00
31 October 2000

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 31 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 1780 PERS 604 of 21 September 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

1780
PERS-604
21 Sep 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
█████████████████

Ref: (a) CNPC memo 5420 PERS-00ZCB of 6 Sep 00
        (b) Title 38, United States Code, Chapter 32
        (c) Veterans Improvement Act of 1996 (PL 104-275)

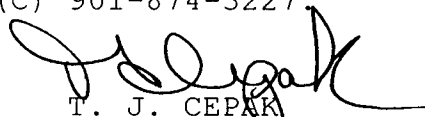1. The following is provided in response to reference (a):

    a. Recommend denial of ████████ request to enroll in
the Veterans' Educational Assistance Program (VEAP) or the
Montgomery GI Bill (MGIB) Program. Eligibility for federally
legislated education benefit programs is determined by the
member's initial entry onto active duty. Per reference (b), the
educational program available to ███████when he entered
active duty on 23 January 1981 was VEAP. Legislation closed
VEAP to new enrollments on 30 June 1985; enrollment reopened for
a five-month "open period" between 28 October 1986 and
31 March 1987. Members who did not enroll before these
deadlines lost their eligibility. Reference (b) did not require
the documentation of a member's decision to elect or decline
enrollment in VEAP (DD Form 2057) to be retained in service
records or microfiche.

    b. The MGIB Program is available for members who entered
active duty for the first time after 30 June 1985. Reference
(c) does not provide for conversion of VEAP eligibility to MGIB
Program except for individuals separating from active duty under
the Voluntary Separation Incentive, Special Separation Benefit,
or certain involuntary separations.

    c. A review of ███████s record indicates he did not
enroll in VEAP before the legislated deadlines and is not
eligible for VEAP benefits. Also, since ██████ came onto
active duty prior to 30 June 1985, he is not eligible for MGIB
Program benefits.

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2. PERS-604's point of contact is Ms. ███████ who can be
reached at (DSN) 882-3227 OR (C) 901-874-3227.

T. J. CEPAK
Captain, U.S. Navy
Director, Navy Drug & Alcohol
Fitness, Education, &
Partnerships Division (PERS-60)